

Introduced by Senators Alquist and Ashburn

February 23, 2006

An act to add Chapter 12.87 (commencing with Section 18987.7) to Part 6 of Division 9 of the Welfare and Institutions Code, relating to foster care, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1570, as introduced, Alquist. Foster care: residentially based services: group homes.

Existing law provides for child welfare services, which are public social services directed toward, among other purposes, protecting and promoting the welfare of all children, including those in foster care placement. Existing law provides for the placement of children in foster care in various settings, including group homes, by foster placement agencies, under the oversight of the State Department of Social Services.

Existing law provides for the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which, pursuant to a combination of federal, state, and county funds, aid on behalf of eligible children is paid to foster care providers.

Existing law, the California Community Care Facilities Act, provides for the licensure and regulation of community care facilities, including group homes, by the State Department of Social Services.

Existing law requires the State Department of Social Services, under the direction of the California Health and Human Services Agency and in collaboration with other appropriate organizations, as specified, to reexamine the role of out-of-home placements currently available for children served within the child welfare services system.

This bill would require the State Interagency Team for Children and Youth, within the California Health and Human Services Agency, to

develop a plan for transforming the current system of group care for foster children or youth and for children with serious emotional disorders into a system of residentially based services. The bill would require that the plan contain specified elements, including elements relating to the services required to be offered by residentially based programs, administrative oversight of programs, the placement and assessment of children and youth in those programs, the use of available funding, agreements to test alternative program design and funding models, and the issuance by the State Department of Social Services of waivers with respect to statutory or regulatory provisions to implement those agreements. The bill would require that the plan be submitted to the Legislature by July 1, 2008.

The bill would provide that the plan may be developed with the assistance of an outside consultant with demonstrated national expertise in statewide foster care and residential systems. It would appropriate \$1,000,000 from the General Fund to the California Health and Human Services Agency for the purpose of employing such a consultant.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 12.87 (commencing with Section
2 18987.7) is added to Part 6 of Division 9 of the Welfare and
3 Institutions Code, to read:

4
5 CHAPTER 12.87. REFORM OF RESIDENTIALLY BASED SERVICES
6 FOR CHILDREN AND YOUTH
7

8 18987.7. (a) The State Interagency Team for Children and
9 Youth, within the California Health and Human Services
10 Agency, shall develop a plan for transforming the current system
11 of group care for foster children or youth and for children with
12 serious emotional disorders (SED) into a system of residentially
13 based services.

14 (b) The plan developed pursuant to subdivision (a) shall be
15 submitted to the Legislature on or before July 1, 2008, and shall
16 include recommendations for specific statutory changes
17 necessary for its implementation. It shall also include a fiscal

1 impact statement and a specific implementation timetable,
2 including any necessary regulatory changes.

3 (c) The plan shall reflect input from public and private
4 nonprofit stakeholders, including, but not be limited to,
5 representatives of all of the following: the state departments of
6 Social Services, Mental Health, Education, Alcohol and Drug
7 Programs, and Corrections and Rehabilitation; county child
8 welfare, probation, mental health, and alcohol and drug
9 programs; local education authorities; current and former foster
10 youth; parents of foster children or youth and children or youth
11 with SED; private nonprofit agencies operating group homes;
12 children's advocates; and other interested parties.

13 (d) The plan shall be based on the reports delivered to the
14 Legislature pursuant to Section 75 of Chapter 311 of the Statutes
15 of 1998 by the Steering Committee for the Reexamination of the
16 Role of Group Care in a Family-Based System of Care in June
17 2001 and August 2002, and the "Framework for a New Vision
18 for residentially based Services in California" published in
19 January, 2006.

20 (e) The plan may be developed with the assistance of an
21 outside consultant with demonstrated national expertise in
22 statewide foster care and residential systems.

23 (f) Along with redefining and improving the role of group
24 care, it is also the intent of the Legislature that state agencies,
25 counties, and private nonprofit agencies continue to work in
26 partnership to develop additional community-based services that
27 will make it possible for more children and youth to be safely
28 and effectively served in their own homes or in another
29 family-living situation with a relative, guardian, foster family, or
30 adoptive family.

31 18987.71. (a) (1) For purposes of this chapter, "residentially
32 based services" means behavioral or therapeutic interventions
33 delivered in nondetention group care settings in which multiple
34 children or youth live in the same housing unit and receive care
35 and supervision from paid staff.

36 (2) The plan developed pursuant to Section 18987.7 shall be
37 based upon an understanding that residentially based services are
38 most effectively used as intensive, short-term interventions when
39 children have unmet needs of such severity and complexity that
40 their behavior renders them or those around them unsafe, or

1 prevents them from benefiting from services and supports
2 provided in the children's own homes or in other family settings,
3 such as with a relative, guardian, foster family, or adoptive
4 family.

5 (b) The plan developed pursuant to Section 18987.7 shall do
6 all of the following:

7 (1) Require that a program offering residentially based
8 services establish a safe, stable, and structured living
9 environment in which behavioral or therapeutic interventions can
10 be provided in order to mitigate the barrier behaviors to a level
11 sufficient to allow children or youth to transition to their own
12 homes or another permanent or stable family setting. A program
13 shall also offer any assistance to families or other primary care
14 givers that is necessary to help them successfully prepare for and
15 retain the children or youth in their setting.

16 (2) Require that a program offering residentially based
17 services include interventions that include all of the following:

18 (A) Environmental interventions that establish a safe, stable,
19 and structured living situation in which children or youth can
20 receive the comfort, attention, structure, and guidance needed to
21 help them reduce the intensity of barrier behaviors so that their
22 caregivers can identify and address the factors driving those
23 behaviors.

24 (B) Intensive treatment interventions that facilitate the rapid
25 movement of children or youth toward connection or
26 reconnection with appropriate and natural home, school, and
27 community ecologies by helping them and their families find
28 ways to understand, reduce, and replace the persistent and
29 difficult barrier behaviors that have been associated with those
30 needs with positive and productive alternatives.

31 (C) Parallel, predischarge community-based interventions that
32 help family members, and other people in the social ecologies
33 that children and youth will be joining or rejoining, to prepare for
34 connection or reconnection. These preparations should be
35 initiated upon placement and proceed apace with the
36 environmental interventions being provided within the residential
37 setting.

38 (D) Followup, postdischarge support and services provided as
39 needed after children or youth have exited the residential
40 component and returned to their own family or to another family

1 living situation in order to ensure the stability and success of the
2 connection or reconnection with home, school, and community.

3 (3) Include all of the following elements:

4 (A) Clear and objective placement criteria to be applied when
5 determining whether a child's and family's circumstances are
6 such that placement of the child in a program offering
7 residentially based services is necessary in order to address the
8 unmet needs of the child that prevent the child and family from
9 receiving and benefiting from assistance provided in the child's
10 own home or in a family setting with a relative, guardian, foster
11 family, or adoptive family.

12 (B) The identification of the comprehensive assessment
13 process to be used by county placement agencies when deciding
14 whether placement in a program providing residentially based
15 services is the option most likely to effectively meet the needs of
16 a child or youth, and his or her family, and help him or her
17 achieve the outcomes that are the goals of the intervention.

18 (C) The identification of the process to be used by county
19 placement agencies and private, nonprofit agencies operating
20 programs that provide residentially based services to insure that
21 the specific program chosen for a child or youth is able to
22 provide the types and level of care and services needed to meet
23 the needs of that child or youth. This may involve the
24 development of categories for residentially based services
25 programs based on the target population of children or youth they
26 are designed to serve and the types and levels of care and
27 services they provide.

28 (D) The identification of processes and procedures that will
29 ensure the active involvement of children or youth and their
30 families in the initial development and ongoing management of
31 plans of care and the delivery of services and treatment.

32 (E) The identification of a functional system for collaborative
33 decisionmaking regarding the use of residentially based services
34 in each county that ensures full participation by the county
35 placement agency, other public agencies involved with providing
36 or funding services needed by the children and their families, the
37 residentially based services programs, and other involved parties,
38 including children or youth and their families.

39 (F) The development of administrative mechanisms, such as
40 community care licensing, to ensure that the residentially based

1 services programs and the facilities they use meet appropriate
2 health and safety standards. These standards should not create
3 inappropriate barriers that inhibit the children or youth in
4 placement from engaging in activities that are necessary for their
5 development.

6 (G) The development of administrative mechanisms to ensure
7 that each agency offering residentially based services programs
8 demonstrates its programmatic and organizational competencies
9 with respect to its mission, values, administration, management,
10 staffing, and quality assurance.

11 (H) The development of administrative mechanisms to ensure
12 that each agency offering residentially based services programs
13 demonstrates its competency in all of the following phases of its
14 service planning and delivery system: engagement, planning,
15 implementation, coordination, and evaluation and quality
16 improvement.

17 (I) The establishment of criteria to ensure that discharge plans
18 and timelines are developed concurrently with treatment and
19 service plans at the time of placement, and are subsequently
20 monitored and updated based on the progress of the children or
21 youth and their families' circumstances, with the goal of
22 reconnecting the children or youth with their families, schools,
23 and communities.

24 (J) The establishment of criteria to ensure that service and
25 discharge planning include the identification and preparation of
26 relatives, guardians, adoptive families, or foster families with
27 whom the children or youth can live either on a permanent basis,
28 or until they can be reunified with their parents, in those cases
29 when it is not possible to reunify children or youth with their
30 own parents or other appropriate family.

31 (K) The creation and definition of specific and objective
32 outcome indicators, and the development of tools and systems for
33 measuring them, to reflect progress made by children or youth
34 placed in programs offering residentially based services toward
35 the goals of safety, permanence, and well-being within the
36 context of the California Child Welfare Outcomes and
37 Accountability System.

38 (L) The development of administrative mechanisms to ensure
39 that private nonprofit agencies operating residentially based
40 services programs use the funding they receive through the Aid

1 to Families with Dependent Children-Foster Care (AFDC-FC)
2 program (Art. 5 (commencing with Sec. 11400), Ch. 2, P. 3) and
3 other public programs to provide quality care and services to the
4 children or youth and their families, consistent with federal and
5 state requirements and county placement agreements.

6 (M) The development of a new methodology for providing
7 funding through the AFDC-FC program for care, supervision,
8 and social work activities, and the development of an additional
9 funding mechanism to pay for the costs of parallel, predischarge
10 community-based interventions and followup and postdischarge
11 support, either as new components of the AFDC-FC program or
12 as new separate funding streams. The new funding methodology
13 for residentially based services programs shall do all of the
14 following:

15 (i) Support the values and goals for residentially based
16 services described above, including active child and family
17 involvement, permanence, team decisionmaking, and outcome
18 measurement.

19 (ii) Ensure that quality care and effective services are
20 delivered to appropriate children or youth at a reasonable cost to
21 the public.

22 (iii) Ensure that payment levels are adequate to cover the cost
23 of the private nonprofit agencies operating residentially based
24 services programs, including the cost of hiring and retaining
25 qualified staff to provide care and services to the children or
26 youth and their families.

27 (iv) Facilitate compliance with state requirements and the
28 attainment of federal performance objectives.

29 (v) Control overall program costs by providing incentives for
30 the private nonprofit agencies to use the most cost-effective
31 approaches for achieving positive outcomes for the children or
32 youth and their families.

33 (vi) Encourage the private nonprofit agencies to access other
34 available public sources of funding and services to meet the
35 needs of the children or youth placed in their residentially based
36 services programs.

37 (vii) Enable the braiding of various funding streams necessary
38 to meet the full range of services needed by foster children or
39 youth in residentially based services programs, with particular
40 reference to funding for mental health treatment services through

1 the Medi-Cal Early and Periodic Screening, Diagnosis, and
2 Treatment program.

3 (viii) Maximize federal financial participation to the extent
4 that it does not inordinately impede the effective delivery of
5 services to children or youth and families, and the achievement
6 of positive outcomes.

7 (ix) Include provisions for effective administrative oversight
8 and enforcement mechanisms in order to ensure programmatic
9 and fiscal accountability.

10 (4) Identify and define the modifications necessary to address
11 the particular and diverse requirements associated with children
12 or youth placed for residentially based services by each major
13 component of the system, including child welfare, probation,
14 mental health, and education.

15 (5) Identify and define in each of the elements adaptations
16 necessary to support the effective and efficient operation of
17 residentially based services programs designed to provide care,
18 supervision, services, and treatment for children or youth with
19 barrier behaviors or similar challenges or conditions, including,
20 but not limited to, programs designed primarily to serve any of
21 the following:

22 (A) Children and youth in need of emergency shelter and
23 assessment.

24 (B) Pregnant or parenting youth.

25 (C) Older youth preparing to emancipate from the foster care
26 system.

27 (D) Youth in the juvenile justice system.

28 (E) Youth with substance abuse problems.

29 (F) Juvenile sex offenders.

30 (G) Children and youth with emotional disturbance or mental
31 illness.

32 (H) Lesbian, gay, bisexual, transgender, or questioning youth.

33 (6) Use the existing level of federal, state, and county funding
34 in a more cost-effective manner than under current law by
35 improving the upfront assessment and placement processes, and
36 permitting private nonprofit agencies to provide services and
37 support to families while their children or youth are in placement
38 and after they are discharged, with the goals of reducing the
39 average length of stay and achieving better long-term outcomes.

(7) Use the savings created by reducing the average length of stay to pay adequate rates under the AFDC-FC program to the private nonprofit agencies for the time that the children or youth are participating in their residential programs. These savings may also be used to pay the private nonprofit agencies for costs associated with new predischarge family support and postdischarge services, to fund county implementation of more effective upfront assessment and placement procedures, and to fund other related community-based services and support.

(8) Propose any appropriate pilot projects to test the use of residentially based services to meet the diverse needs of children or youth and families in the child welfare, juvenile justice, and mental health systems.

(9) Allow the State Department of Social Services to enter into voluntary agreements with individual counties and private nonprofit agencies to test alternative program design and funding models for residentially based services prior to statewide implementation of the plan, including agreements to transform all or part of existing group home programs in accordance with the requirements of the plan, if the agreements satisfy all of the following requirements.

(A) Incorporate and address all of the elements for residentially based services included in the plan.

(B) Reflect active collaboration among the private nonprofit agency that will operate the residentially based services program and county departments of social services, mental health, or juvenile justice, alcohol and drug programs, county offices of education, or other public entities, as appropriate, to ensure that children, youth, and families receive the services and support necessary to meet their needs.

(C) Include provisions for the preparation of an annual evaluation report, to be prepared jointly by the county and the private nonprofit agency. The plan shall require that these provisions include analyses of the outcomes for children and youth, including achievement of permanency, involvement of children or youth and their families, client satisfaction, the use of the program by the county, the operation of the program by the private nonprofit agency, payments made to the private nonprofit agency by the county, and actual costs incurred by the nonprofit agency for the operation of the program. The plan shall also

1 require that the county send a copy of each annual evaluation
2 report to the director, and that the director make these reports
3 available to the Legislature upon request.

4 (D) Include provisions that permit amendments and
5 modifications of the agreement to be made, with the mutual
6 consent of both parties, based on the evaluations described in
7 subparagraph (C) and on experience and information acquired
8 from the implementation and the ongoing operation of the
9 program.

10 (10) Provide that, upon request from a county, the director
11 may waive statutory or regulatory provisions governing child
12 welfare services, AFDC-FC payments, or the operation of
13 programs licensed as group homes in order to enable a county
14 and a private nonprofit agency to implement an agreement
15 described in paragraph (9). The plan shall also provide that a
16 waiver granted by the director shall be applicable only to the
17 development, implementation, and ongoing operation of a
18 residentially based services program and related county activities
19 provided under the terms of the agreement and for the duration of
20 the agreement, and shall be granted only when all of the
21 following apply:

22 (A) The agreement promises to offer a worthwhile test related
23 to the development, implementation, and ongoing operation of a
24 residentially based services program as described in the plan.

25 (B) Existing statutory or regulatory provisions impose barriers
26 for the effective, efficient, and timely implementation of the
27 agreement.

28 (C) The requesting county proposes to monitor the agreement
29 for compliance with the terms of the waiver.

30 (D) The waiver will not result in a substantial loss of federal
31 funds or an increase in the costs to the General Fund for rate
32 payments under the AFDC-FC program, measured over a period
33 not to exceed three years. This would permit higher AFDC-FC
34 rate payments to be made when children or youth are initially
35 placed in a residentially based services program, with savings to
36 offset these higher costs being achieved through shorter lengths
37 of stay in the program as the result of the provision of
38 predischarge support and postdischarge services to the children
39 or youth and their families.

1 (11) Provide that, to the extent that some of the care, services,
2 and other activities associated with a residentially based services
3 program operated under an agreement described in paragraph (9)
4 are not eligible for federal financial participation as foster care
5 maintenance payments under Part E of Title IV of the federal
6 Social Security Act (42 U.S.C. Sec. 670 et seq.), but may be
7 eligible for federal financial participation as administration or
8 training, or may be eligible for federal financial participation
9 under other programs, including, but not limited to, Title XIX of
10 the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.), the
11 appropriate state departments shall take measures to obtain that
12 federal funding.

13 (12) Provide that, prior to approving any waiver pursuant to
14 paragraph (10), the director shall make a determination that the
15 design of the residentially based services program to be operated
16 under the agreement described in paragraph (9) would ensure the
17 health and safety of children or youth to be served.

18 SEC. 2. There is hereby appropriated the sum of one million
19 dollars (\$1,000,000) from the General Fund to the California
20 Health and Human Services Agency for the purpose of
21 employing an outside consultant pursuant to subdivision (e) of
22 Section 18987.7 of the Welfare and Institutions Code, as added
23 by Section 1 of this act.